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(to be used for all correspondence after initial filing)

Application Number	09/689,076
Filing Date	OCTOBER 12 2000
First Named Inventor	REINER KRAFT
Art Unit	2155
Examiner Name	YOUNG N. WON

Total Number of Pages in This Submission

97

Attorney Docket Number

AM 9-99-0219

### ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
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### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	LEONARD T. GUZMAN (REGISTRATION # 46,308)
Signature	
Date	SEPTEMBER 15, 2004

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 330-00)

## Complete if Known

Application Number	09/689,076
Filing Date	OCTOBER 12, 2000
First Named Inventor	REINER KRAFT
Examiner Name	YOUNG N. WON
Art Unit	2155
Attorney Docket No.	AM9-99-0219

## METHOD OF PAYMENT (check all that apply)

Check  Credit card  Money Order  Other  None

 Deposit Account:

Deposit Account Number: 09-0441  
Deposit Account Name: IBM CORPORATION

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
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## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee			
1002 340	2002 170	Design filing fee			
1003 530	2003 265	Plant filing fee			
1004 770	2004 385	Reissue filing fee			
1005 160	2005 80	Provisional filing fee			
SUBTOTAL (1) (\$ 0-00)					

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
				-20** =	X =
				- 3** =	X =
					=

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20		
1201 86	2201 43	Independent claims in excess of 3		
1203 290	2203 145	Multiple dependent claim, if not paid		
1204 86	2204 43	** Reissue independent claims over original patent		
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent		
SUBTOTAL (2) (\$ 0-00)				

\*or number previously paid, if greater; For Reissues, see above

## 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath			
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet			
1053 130	1053 130	Non-English specification			
1812 2,520	1812 2,520	For filing a request for ex parte reexamination			
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action			
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action			
1251 110	2251 55	Extension for reply within first month			
1252 420	2252 210	Extension for reply within second month			
1253 950	2253 475	Extension for reply within third month			
1254 1,480	2254 740	Extension for reply within fourth month			
1255 2,010	2255 1,005	Extension for reply within fifth month			
1401 330	2401 165	Notice of Appeal			
1402 338	2402 165	Filing a brief in support of an appeal			330.
1403 290	2403 145	Request for oral hearing			
1451 1,510	1451 1,510	Petition to institute a public use proceeding			
1452 110	2452 55	Petition to revive - unavoidable			
1453 1,330	2453 665	Petition to revive - unintentional			
1501 1,330	2501 665	Utility issue fee (or reissue)			
1502 480	2502 240	Design issue fee			
1503 640	2503 320	Plant issue fee			
1460 130	1460 130	Petitions to the Commissioner			
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)			
1806 180	1806 180	Submission of Information Disclosure Stmt			
8021 40	8021 40	Recording each patent assignment per property (times number of properties)			
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))			
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))			
1801 770	2801 385	Request for Continued Examination (RCE)			
1802 900	1802 900	Request for expedited examination of a design application			

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 330.00)

## SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	LEONARD T. GUZMAN	Registration No. (Attorney/Agent)	46,308	Telephone	408-927-3377
Signature				Date	9/15/2004

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PATENT

IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

Title: "Platform for Internet Based Real-Time Communication Content Selection"  
INTERJECTING SEARCH ENGINE QUERY RESULTS  
IN RESPONSE TO QUESTIONS BY PARTICIPANTS  
IN TEXT-BASED NETWORK COMMUNICATION"

Applicants: Kraft et al.

Attorney Docket No.: AM9-99-0219

Serial No.: 09/689,076

Filed: October 12, 2000

Examiner: Young N. Won

Art Unit: 2155

5

Mail Stop: Board of Patent Appeals and Interferences  
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APPEAL BRIEF

Dear Sir:

This appeal brief is submitted under 35 U.S.C. §134. This appeal is further to Appellants'

10 Notice of Appeal filed July 15, 2004.

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AM9-99-0219

**(1) Real Party in Interest**

The real party in interest is International Business Machines Corporation.

**(2) Related Appeals and Interferences**

No other appeals or interferences exist that relate to the present application or appeal.

**(3) Status of Claims**

5 Claims 1-20 are pending and remain in the application. By the Final Office Action dated April 15, 2003, the Examiner has rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Duvall et al., U.S. Patent No. 5,884,033 (hereinafter Duvall) in view of Russell-Falla et al., U.S. Patent No. 6,266,664 (hereinafter Russell-Falla). All of the pending claims and all of the rejections are hereby appealed. A copy of the appealed claims is  
10 enclosed herewith as Appendix A.

**(4) Status of Amendments**

No amendments are outstanding.

**(5) Summary of Claimed Subject Matter**

**Independent Claim 1**

15 Independent claim 1 relates to a method of monitoring real time communication on a computer network between at least two client computers connected by the network, where the method includes (1) providing a database of keywords, each of the keywords linked to a predefined rating, (2) monitoring real time communication on a computer network between at least two client computers connected by the network, (3) detecting the keywords in the real  
20 time communication, and (4) determining for the real time communication a rating level based upon the predefined rating of the keywords. (Please see Application as Filed, page 4, lines 4-10.)

**Independent Claim 17**

Independent claim 17 relates to a method of monitoring real time communication on a computer network between at least two client computers connected by the network, where the method includes (1) providing a real time communication monitoring system on a computer network including a database of keywords, each of the keywords linked to a predefined rating,

5 where the system is adapted to (a) monitor real time communication between at least two client computers connected by the network, (b) detect the keywords in the real time communication, and (c) determine for the real time communication a rating level based upon the predefined rating of the keywords, (2) connecting a subsequent client computer to the network without establishing real time communication with the at least two client computers,

10 (3) viewing at the subsequent client computer the rating level of the real time communication between the at least two client computers, and (4) connecting the subsequent client computer to the real time communication based upon the rating level. (Please see Application as Filed, page 5, lines 14-26.)

**Independent Claim 18**

15 Independent claim 18 relates to a system for monitoring real time communication on a computer network between at least two client computers connected by the network, where the system includes (1) a database of keywords, each of the keywords linked to a predefined rating, (2) means for monitoring real time communication on a computer network between at least two client computers connected by the network, (3) means for detecting the keywords in

20 the real time communication, and (4) means for determining for the real time communication a rating level based upon the predefined rating of the keywords. (Please see Application as Filed, page 5, lines 27-29 to page 6, lines 1-5.)

25 The means plus function “means for monitoring real time communication on a computer network between at least two client computers connected by the network” of claim 18 corresponds to the following structure, material, or acts described in the specification as corresponding to the claimed function: “It should be noted that LISA provides the user with the option of simultaneously monitoring multiple live conversations in different chat rooms.” (Please see Application as Filed, page 14, lines 1-7.)

The means plus function “means for detecting the keywords in the real time communication” of claim 18 corresponds to the following structure, material, or acts described in the specification as corresponding to the claimed function:

5 a. “Each message that LISA detected and stored that includes the keyword ‘IBM’ is displayed, along with the specified parameters.” (Please see Application as Filed, page 16, lines 3-12.); and

b. “In particular, the SA interfaces with a keyword database and checks for the occurrence of user specified keywords in the summaries that it analyzes.” (Please see Application as Filed, page 19 lines 24-29 to page 20, lines 1-2.).

10 The means plus function “means for determining for the real time communication a rating level based upon the predefined rating of the keywords” of claim 18 corresponds to the following structure, material, or acts described in the specification as corresponding to the claimed function:

15 a. “In addition to the current rating, the portal graphical user interface (GUI) more preferably also determines and displays a Rating History Graph (RHG) showing the history of ratings, as computed during an immediately completed selected time period, where the time period is specified by the user.” (Please see Application as Filed, page 17, lines 8-21.);

b. “Message Rating Manager (MRM)

20 The Message Rating Manager (MRM) 50 software component of the system actually determines what rating should be assigned to a particular message, exchanged in real time in a chat room, which matches the user's specifications. The MRM maintains a user specified mapping between keywords and ratings. In the event that a given message contains multiple keywords, which may map to different ratings, the MRM may construct a weighted, aggregate rating. The exact criteria and weighting to be used in the construction of this aggregate rating may be specified by the user via the UI. Alternatively, the user may choose to specify a ranking among the candidate ratings, and may wish to impose special conditions, such as requiring that the highest rating matched by any keyword in a given message should become

the overall rating for the message.” (Please see Application as Filed, page 20, lines 4-22.); and

c. “Channel Rating Manager (CRM)

The Channel Rating Manager (CRM) 40 software component of the system determines what 5 overall rating should be assigned to the real time communication channel (chat room) being monitored. The CRM maintains a running, weighted aggregated rating across all the individual message ratings produced by the MRM, to deduce a real time, continuously updated, overall rating for the chat room. The exact criteria and weighting to be used in the construction of this aggregate rating may be specified by the user via the UI. For instance, a 10 simple weighting scheme may be to assign relative weights based on relative message lengths, or number of keywords encountered in the message. Alternatively, the user may choose to impose special conditions, such as requiring that the highest rating matched by any message during the past X minutes (where X is specified by the user) should become the overall rating for the room. Once the CRM has deduced a rating, the rating, along with the name of the chat 15 room to which the rating corresponds to, will be sent to the Client Interface (CI) 30.” (Please see Application as Filed, page 20, lines 24-29 to page 21, lines 1-8.)

**Independent Claim 19**

Independent claim 19 relates to a computer program product for monitoring real time communication on a computer network between at least two client computers connected by 20 the network, where the computer program product includes (1) a database of keywords, each of the keywords linked to a predefined rating, (2) program code means for monitoring real time communication on a computer network between at least two client computers connected by the network, (3) program code means for detecting the keywords in the real time communication, and (4) program code means for determining for the real time communication 25 a rating level based upon the predefined rating of the keywords. (Please see Application as Filed, page 6, lines 6-13.)

The means plus function “program code means for monitoring real time communication on a computer network between at least two client computers connected by the network” of claim 19 corresponds to the following structure, material, or acts described in

the specification as corresponding to the claimed function: "It should be noted that LISA provides the user with the option of simultaneously monitoring multiple live conversations in different chat rooms." (Please see Application as Filed, page 14, lines 1-7.)

The means plus function "program code means for detecting the keywords in the real

5 time communication" of claim 19 corresponds to the following structure, material, or acts described in the specification as corresponding to the claimed function:

a. "Each message that LISA detected and stored that includes the keyword 'IBM' is displayed, along with the specified parameters." (Please see Application as Filed, page 16, lines 3-12.); and

10 b. "In particular, the SA interfaces with a keyword database and checks for the occurrence of user specified keywords in the summaries that it analyzes." (Please see Application as Filed, page 19 lines 24-29 to page 20, lines 1-2.).

The means plus function "program code means for determining for the real time communication a rating level based upon the predefined rating of the keywords" of claim 19 corresponds to the following structure, material, or acts described in the specification as 15 corresponding to the claimed function:

a. "In addition to the current rating, the portal graphical user interface (GUI) more preferably also determines and displays a Rating History Graph (RHG) showing the history of ratings, as computed during an immediately completed selected time period, where 20 the time period is specified by the user." (Please see Application as Filed, page 17, lines 8-21.);

b. "Message Rating Manager (MRM)

The Message Rating Manager (MRM) 50 software component of the system actually determines what rating should be assigned to a particular message, exchanged in real time in a 25 chat room, which matches the user's specifications. The MRM maintains a user specified mapping between keywords and ratings. In the event that a given message contains multiple keywords, which may map to different ratings, the MRM may construct a weighted, aggregate rating. The exact criteria and weighting to be used in the construction of this aggregate rating may be specified by the user via the UI. Alternatively, the user may choose to specify a

ranking among the candidate ratings, and may wish to impose special conditions, such as requiring that the highest rating matched by any keyword in a given message should become the overall rating for the message.” (Please see Application as Filed, page 20, lines 4-22.); and

5           c.       “Channel Rating Manager (CRM)

The Channel Rating Manager (CRM) 40 software component of the system determines what overall rating should be assigned to the real time communication channel (chat room) being monitored. The CRM maintains a running, weighted aggregated rating across all the individual message ratings produced by the MRM, to deduce a real time, continuously updated, overall rating for the chat room. The exact criteria and weighting to be used in the construction of this aggregate rating may be specified by the user via the UI. For instance, a simple weighting scheme may be to assign relative weights based on relative message lengths, or number of keywords encountered in the message. Alternatively, the user may choose to impose special conditions, such as requiring that the highest rating matched by any message during the past X minutes (where X is specified by the user) should become the overall rating for the room. Once the CRM has deduced a rating, the rating, along with the name of the chat room to which the rating corresponds to, will be sent to the Client Interface (CI) 30.” (Please see Application as Filed, page 20, lines 24-29 to page 21, lines 1-8.)

**Independent Claim 20**

20           Independent claim 20 relates to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for monitoring real time communication on a computer network between at least two client computers connected by the network using a database of keywords, each of the keywords linked to a predefined rating, where the method includes (1) monitoring real time communication on a computer network between at least two client computers connected by the network, (2) detecting the keywords in the real time communication, and (3) determining for the real time communication a rating level based upon the predefined rating of the keywords. (Please see Application as Filed, page 6, lines 14-22.)

(6) **Grounds of Rejection to be Reviewed on Appeal**

The issue for review is whether claims 1-20 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Duvall in view of Russell-Falla.

(7) **Argument**

**A. Introduction**

5 The issue for review is whether claims 1-20 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Duvall in view of Russell-Falla.

**B. Whether claims 1-20 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Duvall in view of Russell-Falla**

10 Applicants respectfully traverse the obviousness rejection of claims 1-20 over Duvall in view of Russell-Falla, and submit that claims 1-20 are not obvious Duvall in view of Russell-Falla, and are patentable thereover. In support of this position, Applicants submit the following argument.

**1. Legal Standards for Obviousness**

15 The following legal authorities set the general standards in support of Applicant's position of non obviousness, with emphasis added for added clarity:

- MPEP §2143.03, "All Claim Limitations Must Be Taught or Suggested: To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).  
20 "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).  
25
- MPEP §2143.01, "The Prior Art Must Suggest The Desirability Of The Claimed Invention: There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998) (The combination of the references taught every element of the claimed invention, however without a motivation to combine, a rejection based on a prima facie case of obvious was held improper). The level of skill in the art  
30

cannot be relied upon to provide the suggestion to combine references. Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).

- “Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination.” In re Fine, 837 F.2d at 1075, 5 USPQ2d at 1598 (citing ACS Hosp. Sys. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)). What a reference teaches and whether it teaches toward or away from the claimed invention are questions of fact. See Raytheon Co. v. Roper Corp., 724 F.2d 951, 960-61, 220 USPQ 592, 599-600 (Fed. Cir. 1983), cert. denied, 469 U.S. 835, 83 L. Ed. 2d 69, 105 S. Ct. 127 (1984). “
- “When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references. See In re Geiger, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987).” Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See MPEP 2143.01; In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).
- “With respect to core factual findings in a determination of patentability, however, the Board cannot simply reach conclusions based on its own understanding or experience -- or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.” See In re Zurko, 258 F.3d 1379 (Fed. Cir. 2001).
- “We have noted that evidence of a suggestion, teaching, or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, see Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1630 (Fed. Cir. 1996), Para-Ordinance Mfg. v. SGS Imports Intern., Inc., 73 F.3d 1085, 1088, 37 USPQ2d 1237, 1240 (Fed. Cir. 1995), although “the suggestion more often comes from the teachings of the pertinent references,” Rouffet, 149 F.3d at 1355, 47 USPQ2d at 1456. The range of sources available, however, does not diminish the requirement for actual evidence. That is, the showing must be clear and particular. See, e.g., C.R. Bard, 157 F.3d at 1352, 48 USPQ2d at 1232. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence.” E.g., McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) (“Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact.”); In re Sichert, 566 F.2d 1154, 1164, 196 USPQ 209, 217 (CCPA 1977).” See In re Dembicza, 175 F.3d 994 (Fed. Cir. 1999).

- “To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.” See *In re Rouffet*, 149, F.3d 1350 (Fed. Cir. 1998).
- 10 • The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Although a prior art device “may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.” 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references).
- 15 • If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).
- 20

## 2. Application of the Obviousness Standard to the Present Invention

By the Final Office Action dated April 15, 2003, the Examiner has rejected claims 1-

25 20 under 35 U.S.C. § 103(a) as being unpatentable over Duvall et al., U.S. Patent No. 5,884,033 (hereinafter Duvall) in view of Russell-Falla et al., U.S. Patent No. 6,266,664 (hereinafter Russell-Falla). In order to form a proper obviousness rejection of a claim under 35 U.S.C. § 103(a), a collection of references together must teach or suggest each element of the claim, including the relationships between the elements. If any element is not fully taught 30 by the combined references, the rejection cannot be sustained.

Evaluating Duvall in view of Russell-Falla in this light, it is appropriate to examine the portions of Duvall in view of Russell-Falla that the Examiner has pointed to as teaching the claimed elements of the rejected claims.

### Claims 1-16, and 18-20

35 The Examiner has asserted that

[a]s per claims 1 and 18-20, Duvall teaches a method of (see Fig.3 and 4), a system comprising means for (see title), a computer program product comprising code for (see col.2, lines 1-11), and a program storage device readable by a machine, 5 tangibly embodying a program of instructions executable by the machine to perform a method for (see Fig.2; col.1, lines 59-60; and col.3, lines 44-49), monitoring communication on a computer network (see col.1, lines 30-35) between at least two client computers connected by the network (see Fig.1 and col.2, 10 lines 34-38) comprising: providing a database of keywords (see col.1, lines 30-35 and col.8, lines 48-61), each of said keywords linked to a predefined rating (see abstract: ‘match’; and col.1, lines 35-40); monitoring communication on a computer network (see col.1, lines 30-35) between at least two client computers 15 connected by the network (see Fig.1 and col.2, lines 34-38); detecting said keywords in the communication (see Fig.4, #132 & #134 and col.1, lines 45-51); and determining for the communication a rating level based upon the predefined rating of said keywords (see col.5, lines 8-19 & 23-29).

20

(See Office Action, page 2, paragraph 4.) Then, the Examiner admitted that “Duvall does not explicitly teach that the communication is in real-time.” (See Office Action, page 3.) The Examiner then asserted that “Russell-Falla teaches of a communication is in real-time (see col.2, lines 53-56).” (See Office Action, page 3) Finally, the Examiner asserted that

25 [(1)] [i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Russell-Falla within the system of Duvall by implementing communication in real-time within the computer network communication monitoring system, method, and program because

Russell-Falla teaches that ‘web page’ are a ‘real-time media stream’ (see Russell-Falla: abstract) and that filtering can be implemented by ‘real-time identification of instances’ (see Russell-Falla: col. 2, lines 53-56) and Duvall teaches of accessing and filtering ‘web pages’ within the invention (see Duvall: abstract and col.7, line 3) . . . [and, (2)]  
5 [t]herefore, since Duvall teaches of web pages, one of ordinary skill in the art would include real-time communication within the system of Duvall.

10 (See Office Action, page 3.)

**Claim 1**

To the extent the Examiner's language at pages 2 and 3 of the Office Action can be understood, it appears that the Examiner has asserted the following correspondence between Duvall and Russell-Falla and claim 1:

<b>Claim 1</b>	<b><u>Duvall</u></b>	<b><u>Russell-Falla</u></b>
A method of monitoring <i>real time</i> communication on a computer network between at least two client computers connected by the network comprising:  providing a database of keywords, each of said keywords linked to a predefined <i>rating</i> ;  monitoring <i>real time</i> communication on a computer network between at least two client	<u>Duvall</u> does not teach this claim feature.  <u>Duvall</u> does not teach this claim element.  <u>Duvall</u> does not teach this claim element.	<u>Russell-Falla</u> does not teach this claim feature.  -  <u>Russell-Falla</u> does not teach this claim element.

<p>computers connected by the network;</p> <p>detecting said keywords in the <i>real time</i> communication; and</p> <p>determining for the <i>real time</i> communication a rating level based upon the predefined rating of said keywords.</p>	<p><u>Duvall</u> does not teach this claim element.</p> <p><u>Duvall</u> does not teach this claim element.</p>	<p><u>Russell-Falla</u> does not teach this claim element.</p> <p><u>Russell-Falla</u> does not teach this claim element.</p>
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In reviewing the cited portions of Duvall and Russell-Falla, however, it becomes apparent that Duvall and Russell-Falla have been generalized, and, in fact, does not support the position asserted by the Examiner.

5 **monitoring real time communication on a computer network between at least two client computers connected by the network**

In particular, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest “monitoring *real time* communication on a computer network between at least two client computers connected by the network”, as required by claim 1. Since the Examiner

10 admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 1 element of “monitoring *real time* communication on a computer network between at least two client computers connected by the network”. Russell-Falla also fails to teach or suggest the claim 1 element of “monitoring *real time* communication on a computer network between at least two client computers connected by the network” for

15 several reasons. For example, although Russell-Falla discloses “real-time *identification* of instances of particular selected categories of content” (See Russell-Falla, col. 2, lines 50-56.), Russell-Falla does not teach or suggest monitoring real-time *communication*, as required by claim 1. In fact, Russell-Falla discloses monitoring static, *not real-time*, communication, such as web pages and “digital records or datasets other than web pages, for example files,

directories and email messages". (See Russell-Falla, col. 2, lines 41-56 and col. 3, lines 30-34.) Therfore, Russell-Falla teaches away from the claim 1 element of "monitoring *real time* communication on a computer network between at least two client computers connected by the network" by only disclosing monitoring static, *not real-time*, communication. Therefore,

5 Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 1 element of "monitoring *real time* communication on a computer network between at least two client computers connected by the network".

**detecting said keywords in the *real time* communication**

Also, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest

10 "detecting said keywords in the *real time* communication", as required by claim 1. Since the Examiner admitted that Duvall does not teach "that the communication is in real-time", Duvall cannot teach or suggest the claim 1 element of "detecting said keywords in the *real time* communication". Russell-Falla also fails to teach or suggest the claim 1 element of "detecting said keywords in the *real time* communication" for several reasons. For example,

15 although Russell-Falla discloses "real-time *identification* of instances of particular selected categories of content" (See Russell-Falla, col. 2, lines 50-56.), Russell-Falla does not teach or suggest detecting expressions, or keywords, in a real-time *communication*, as required by claim 1. In fact, Russell-Falla discloses detecting expressions, or keywords, in static, *not real-time*, communication, such as web pages by "scanning the [web] page[, or static

20 communication,] to identify the regular expressions, such as natural language textual portions of the page." (See Russell-Falla, col. 2, lines 41-56 and col. 5, lines 5-7.) Therfore, Russell-Falla teaches away from the claim 1 element of "detecting said keywords in the *real time* communication" by only disclosing detecting expressions, or keywords, in static, *not real-time*, communication. Therefore, Duvall and Russell-Falla, alone or in combination, cannot

25 teach or suggest the claim 1 element of "detecting said keywords in the *real time* communication".

**determining for the *real time* communication a rating level based upon the predefined rating of said keywords**

In addition, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest “determining for the *real time* communication a rating level based upon the predefined rating of said keywords”, as required by claim 1. Since the Examiner admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 1

5 element of “determining for the *real time* communication a rating level based upon the predefined rating of said keywords”. Russell-Falla also fails to teach or suggest the claim 1 element of “determining for the *real time* communication a rating level based upon the predefined rating of said keywords” for several reasons. For example, although Russell-Falla discloses “real-time *identification* of instances of particular selected categories of content”

10 (See Russell-Falla, col. 2, lines 50-56.), Russell-Falla does not teach or suggest determining a rating for a real-time *communication*, as required by claim 1. In fact, Russell-Falla discloses calculating a rating for static, *not real-time*, communication, such as web pages by “rating web pages relative to a selected characteristic.” (See Russell-Falla, col. 2, lines 41-56 and col. 4, lines 61-65.) Therfore, Russell-Falla teaches away from the claim 1 element of

15 “determining for the *real time* communication a rating level based upon the predefined rating of said keywords” by only disclosing determining ratings static, *not real-time*, communication, such as web pages. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 1 element of “determining for the *real time* communication a rating level based upon the predefined rating of said keywords”.

20 It is therefore clear that Duvall and Russell-Falla, alone or in combination, cannot teach or suggest each element of claim 1 and, therefore, a rejection of claim 1 under 35 U.S.C. § 103(a) is inappropriate.

#### Claim 2-16

Since dependent claims 2-16 depend on claim 1 and since Duvall and Russell-Falla, alone or in combination, cannot teach or suggest each element of claim 1, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest each element of claims 2-16, and, therefore, a rejection of claim 2-16 under 35 U.S.C. § 103(a) is inappropriate.

#### Claim 18

Since claim 18 is the system version of claim 1, with similar elements as claim 1, and since Duvall and Russell-Falla, alone or in combination, cannot teach or suggest each element of claim 1, Duvall and Russell-Falla, alone or in combination, similarly cannot teach or suggest each element of claim 18, and therefore, a rejection of claim 18, under 35 U.S.C. §

5 103(a) is inappropriate.

### **Claim 19**

Since claim 19 is the computer program product version of claim 1, with similar elements as claim 1, and since Duvall and Russell-Falla, alone or in combination, cannot teach or suggest each element of claim 1, Duvall and Russell-Falla, alone or in combination, 10 similarly cannot teach or suggest each element of claim 19, and therefore, a rejection of claim 19, under 35 U.S.C. § 103(a) is inappropriate.

### **Claim 20**

Since claim 20 is the computer program product version of claim 1, with similar elements as claim 1, and since Duvall and Russell-Falla, alone or in combination, cannot 15 teach or suggest each element of claim 1, Duvall and Russell-Falla, alone or in combination, similarly cannot teach or suggest each element of claim 20, and therefore, a rejection of claim 20, under 35 U.S.C. § 103(a) is inappropriate.

### **Claim 17**

The Examiner has asserted that

20

[a]s per claim 17, Duvall teaches a method (see Fig.3 and 4) of monitoring communication on a computer network (see col.1, lines 30-35) between at least two client computers connected by the network (see Fig.1 and col.2, lines 34-38) comprising:

25 providing a communication monitoring system on a computer network including a database of keywords (see col.1, lines 30-35), each of said keywords linked to a predefined rating (see abstract: ‘match’; and col.1, lines 35-40); the system adapted to: i) monitor communication between at least two client computers connected by

the network (see Fig.1; col.1, lines 30-35; and col.2, lines 34-38); ii) detect said keywords in the communication (see Fig.4, #132 & #134 and col.1, lines 45-51); and iii) determine for the real-time communication a rating level based upon the predefined rating of said keywords (see col. 5, lines 8-19 & 23-29); connecting a subsequent client computer to the network with the at least two client computers (see Fig.1); viewing at the subsequent client computer the rating level of the real-time communication between the at least two client computers (see col.1, lines 59-64 and col.4, lines 60-64); and connecting the subsequent client computer to the communication based upon the rating level (see col.4, lines 15-20).

(See Office Action, page 3, paragraph 1.) Then, the Examiner admitted that “Duvall does not explicitly teach that the communication is in real-time.” (See Office Action, page 4.)

The Examiner then asserted that “Russell-Falla teaches of a communication is in real-time (see col.2, lines 53-56).” (See Office Action, page 4) Finally, the Examiner asserted that [(1)] [i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Russell-Falla within the system of Duvall by implementing communication in real-time within the computer network communication monitoring system, method, and program because Russell-Falla teaches that ‘web page’ are a ‘real-time media stream’ (see Russell-Falla: abstract) and that filtering can be implemented by ‘real-time identification of instances’ (see Russell-Falla: col. 2, lines 53-56) and Duvall teaches of accessing and filtering ‘web pages’ within the invention (see Duvall: col.7, line 3) . . . [and, (2)] [t]herefore, since Duvall teaches of web pages, one of ordinary skill in the art would include real-time communication within the system of Duvall.

(See Office Action, page 4.)

**Claim 17**

To the extent the Examiner's language at pages 3-5 of the Office Action can be  
5 understood, it appears that the Examiner has asserted the following correspondence between  
Duvall and Russell-Falla and claim 17:

<b>Claim 17</b>	<b>Duvall</b>	<b>Russell-Falla</b>
A method of monitoring <i>real time</i> communication on a computer network between at least two client computers connected by the network comprising:  providing a <i>real time</i> communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating;	<u>Duvall</u> does not teach this claim feature.  <u>Duvall</u> does not teach this claim element.	<u>Russell-Falla</u> does not teach this claim feature.  <u>Russell-Falla</u> does not teach this claim element.
the system adapted to:  i) monitor <i>real time</i> communication between at least two client computers connected by the network;	<u>Duvall</u> does not teach this claim feature.  <u>Duvall</u> does not teach this claim feature.	<u>Russell-Falla</u> does not teach this claim feature.  <u>Russell-Falla</u> does not teach this claim feature.
ii)	<u>Duvall</u> does not teach this	<u>Russell-Falla</u> does not



In reviewing the cited portions of Duvall and Russell-Falla, however, it becomes apparent that Duvall and Russell-Falla have been generalized, and, in fact, does not support the position asserted by the Examiner.

5 providing a *real time* communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating

In particular, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest “providing a *real time* communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating”, as required by claim 17. Since the Examiner admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 17 element of “providing a *real time* communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating”. Russell-Falla also fails to teach or suggest the claim 17 element of “providing a *real time* communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating” for several reasons. For example, although Russell-Falla discloses “real-time *identification* of instances of particular selected categories of content” (See Russell-Falla, col. 2, lines 50-56.), Russell-Falla does not teach or suggest providing a *real-time* communication monitoring system, as required by claim 17. In fact, Russell-Falla discloses providing a monitoring system for static, *not real-time*, communication, such as web pages that enables “parents or guardians to exercise control over what web pages can be downloaded and viewed by their children.” (See Russell-Falla, col. 1, lines 30-35.) Therfore, Russell-Falla teaches away from the claim 1 element of “providing a *real time* communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating” by only disclosing providing a monitoring system for static, *not real-time*, communication. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 17 element of “providing a *real time* communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating”.

**monitor *real time* communication between at least two client computers connected by the network**

In addition, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest the claim feature “monitor *real time* communication between at least two client computers connected by the network”, as required by claim 17. Since the Examiner admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 17 feature of “monitor *real time* communication between at least two client computers connected by the network”. Russell-Falla also fails to teach or suggest the claim 17 feature of “monitor *real time* communication between at least two client computers connected by the network” for the same reasons that Russell-Falla fails to teach or suggest the claim 1 element of “monitoring *real time* communication on a computer network between at least two client computers connected by the network”. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 17 feature of “monitor *real time* communication between at least two client computers connected by the network”.

**15 detect said keywords in the *real time* communication**

Also, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest the claim feature “detect said keywords in the *real time* communication”, as required by claim 17. Since the Examiner admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 17 feature of “detect said keywords in the *real time* communication” for the same reasons that Russell-Falla fails to teach or suggest the claim 1 element of “detecting said keywords in the *real time* communication”. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 17 feature of “detect said keywords in the *real time* communication”.

**25 determine for the *real time* communication a rating level based upon the predefined rating of said keywords**

In addition, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest the claim feature “determine for the *real time* communication a rating level based upon the predefined rating of said keywords”, as required by claim 17. Since the Examiner admitted

that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 17 feature of “determine for the *real time* communication a rating level based upon the predefined rating of said keywords”. Russell-Falla also fails to teach or suggest the claim 17 feature of “determine for the *real time* communication a rating level

5 based upon the predefined rating of said keywords” for the same reasons that Russell-Falla fails to teach or suggest the claim 1 element of “determining for the *real time* communication a rating level based upon the predefined rating of said keywords”. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 17 feature of “determine for the *real time* communication a rating level based upon the predefined rating of

10 said keywords”.

**viewing at the subsequent client computer the rating level of the  
real time communication between the at least two client  
computers**

In particular, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest “viewing at the subsequent client computer the rating level of the *real time* communication between the at least two client computers”, as required by claim 17. Since the Examiner admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 17 element of “viewing at the subsequent client computer the rating level of the *real time* communication between the at least two client computers”. Russell-Falla also fails to teach or suggest the claim 17 element of “viewing at the subsequent client computer the rating level of the *real time* communication between the at least two client computers” for several reasons. For example, although Russell-Falla discloses “real-time *identification* of instances of particular selected categories of content” (See Russell-Falla, col. 2, lines 50-56.), Russell-Falla does not teach or suggest viewing at a subsequent client computer a rating level of a *real-time* communication, as required by claim 17. In fact, Russell-Falla discloses “a computer program for use in conjunction with a web browser client program for the purpose of rating [static, *not real time*,] web pages relative to a selected characteristic.” (See Russell-Falla, col. 4, lines 60-64.) Therfore, Russell-Falla teaches away from the claim 1 element of “viewing at the subsequent client computer the

rating level of the *real time* communication between the at least two client computers” by only disclosing a rating system for static, *not real-time*, communication. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 17 element of “viewing at the subsequent client computer the rating level of the *real time* communication between the at least two client computers”.

**connecting the subsequent client computer to the *real time* communication based upon the rating level**

In particular, Duvall and Russell-Falla, alone or in combination, fail to teach or suggest “connecting the subsequent client computer to the *real time* communication based upon the rating level”, as required by claim 17. Since the Examiner admitted that Duvall does not teach “that the communication is in real-time”, Duvall cannot teach or suggest the claim 17 element of “connecting the subsequent client computer to the *real time* communication based upon the rating level”. Russell-Falla also fails to teach or suggest the claim 17 element of “connecting the subsequent client computer to the *real time* communication based upon the rating level” for several reasons. For example, although Russell-Falla discloses “real-time *identification* of instances of particular selected categories of content” (See Russell-Falla, col. 2, lines 50-56.), Russell-Falla does not teach or suggest connecting a subsequent client computer to a *real-time* communication based upon a rating level, as required by claim 17. In fact, Russell-Falla discloses “a neural network approach [that] is used to assign weightings to each of the listed expressions [by using] . . . the experience of thousands of [static, *not real time*] examples, like web pages” (See Russell-Falla, col. 4, lines 15-20.) Therfore, Russell-Falla teaches away from the claim 1 element of “connecting the subsequent client computer to the *real time* communication based upon the rating level” by only disclosing a rating system for static, *not real-time*, communication. Therefore, Duvall and Russell-Falla, alone or in combination, cannot teach or suggest the claim 17 element of “connecting the subsequent client computer to the *real time* communication based upon the rating level”.

It is therefore clear that Duvall and Russell-Falla, alone or in combination, cannot teach or suggest each element and each feature of claim 17 and, therefore, a rejection of claim 17 under 35 U.S.C. § 103(a) is inappropriate.

## CONCLUSION

All the claims presently on file in the present application are in condition for immediate allowance, and such action is respectfully requested. It is respectfully submitted that the application has now been brought into a condition where allowance of the case is proper. Reconsideration and issuance of a Notice of Allowance are respectfully solicited.

5 Respectfully Submitted,



10 Date: September 15, 2004  
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## **APPENDIX A**

### **CLAIMS APPENDIX**

5    1.    A method of monitoring real time communication on a computer network between at least two client computers connected by the network comprising:  
          providing a database of keywords, each of said keywords linked to a predefined rating;  
          monitoring real time communication on a computer network between at least two client computers connected by the network;  
10    detecting said keywords in the real time communication; and  
          determining for the real time communication a rating level based upon the predefined rating of said keywords.

15    2.    The method of claim 1 wherein the rating level of the real time communication is conveyed to at least one of the client computers.

20    3.    The method of claim 1 wherein at least one additional client computer receives the real time communication, and wherein the rating level of the real time communication is conveyed to the at least one additional client computer.

25    4.    The method of claim 1 wherein the determining of the rating level for the real time communication occurs simultaneously with the real time communication.

30    5.    The method of claim 1 wherein the determining of the rating level for the real time communication is based on evaluation of individual ratings of a plurality of different keywords.

          6.    The method of claim 1 further including terminating the real time communication of at least one of the client computers based upon the rating level.

30

7. The method of claim 1 including predetermining at a first of the at least two client computers a maximum rating level at which the real time communication may be maintained; originating one or more keywords at a second of the at least two client computers which triggers a rating level above the maximum rating level; and terminating real time communication of the first client computer.

5

8. The method of claim 1 further including predetermining a maximum rating level at which the real time communication may be maintained; originating one or more keywords at one of the client computers which triggers a rating level above the maximum rating level; and identifying the one client computer originating the keyword above the maximum rating.

10

9. The method of claim 1 including predetermining a maximum rating level at which the real time communication may be maintained; originating one or more keywords at one of the client computers which triggers a rating level above the maximum rating level; and terminating real time communication of the one client computer.

15

10. The method of claim 1 further including continuously updating the rating level determined for the real time communication.

20

11. The method of claim 1 further including continuously updating the rating level determined for the real time communication based upon the highest keyword rating within a selected time period.

25

12. The method of claim 1 further including continuously updating the rating level determined for the real time communication based upon a weighted average of keyword ratings within a selected time period.

13. The method of claim 1 further including determining the range of the rating level determined for the real time communication based upon highest and lowest keyword ratings within a selected time period.

5 14. The method of claim 1 further including connecting a subsequent client computer to the network without establishing real time communication; viewing at the subsequent client computer the rating level of the real time communication; and connecting the subsequent client computer to the real time communication based upon the rating level.

10 15. The method of claim 1 wherein separate real time communication occurs between different groups of client computers, and including determining a rating level for the real time communication for each group of client computers.

15 16. The method of claim 1 wherein the keyword is selected from the group consisting of text, audio, video and graphical communication.

17. A method of monitoring real time communication on a computer network between at least two client computers connected by the network comprising:

20 providing a real time communication monitoring system on a computer network including a database of keywords, each of said keywords linked to a predefined rating; the system adapted to:

25 i) monitor real time communication between at least two client computers connected by the network;

ii) detect said keywords in the real time communication; and

iii) determine for the real time communication a rating level based upon the predefined rating of said keywords;

connecting a subsequent client computer to the network without establishing real time communication with the at least two client computers;

viewing at the subsequent client computer the rating level of the real time communication between the at least two client computers; and connecting the subsequent client computer to the real time communication based upon the rating level.

5

18. A system for monitoring real time communication on a computer network between at least two client computers connected by the network comprising:

a database of keywords, each of said keywords linked to a predefined rating;

means for monitoring real time communication on a computer network between at

10 least two client computers connected by the network;

means for detecting said keywords in the real time communication; and

means for determining for the real time communication a rating level based upon the predefined rating of said keywords.

15 19. A computer program product for monitoring real time communication on a computer network between at least two client computers connected by the network comprising:

a database of keywords, each of said keywords linked to a predefined rating;

program code means for monitoring real time communication on a computer network between at least two client computers connected by the network;

20 program code means for detecting said keywords in the real time communication; and

program code means for determining for the real time communication a rating level based upon the predefined rating of said keywords.

20. A program storage device readable by a machine, tangibly embodying a program of 25 instructions executable by the machine to perform a method for monitoring real time

communication on a computer network between at least two client computers connected by the network using a database of keywords, each of said keywords linked to a predefined rating, the method comprising:

monitoring real time communication on a computer network between at least two client computers connected by the network;

detecting said keywords in the real time communication; and

determining for the real time communication a rating level based upon the predefined

5 rating of said keywords.

**APPENDIX B**

**EVIDENCE APPENDIX**

5 There is no applicable evidence.

**APPENDIX C**

**RELATED PROCEEDINGS APPENDIX**

5 There are no related proceedings.